

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
ALEXANDRIA DIVISION**

REGAN MILLER,  
Plaintiff,

v.

CITY OF MANASSAS PARK, et al.,  
Defendants.

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Case No.: 1:21cv00456

**DEFENDANTS' MEMORANDUM IN SUPPORT OF MOTION FOR ENTRY OF ORDER  
DIRECTING PRESERVATION OF ALL ELECTRONICALLY STORED INFORMATION,  
COPIES AND BACKUP, AS DEFINED BY RULE 34 OF THE FEDERAL RULES OF CIVIL  
PROCEDURE, ALONG WITH ANY PAPER FILES UNTIL AFTER WHICH TIME A FINAL  
JUDGMENT IS ENTERED AND APPEALS ARE EXHAUSTED**

COME NOW Defendants, City of Manassas Park (“the City”), Mario Lugo (“Lugo”), Frank Winston (“Winston”), Trevor Reinhart (“Reinhart”), Carl Dorr (“Dorr”) and Laszlo Palko (“Palko”), by counsel, and file their Memorandum in Support of their Motion for Entry of Order Directing Preservation of All Electronically Stored Information, Copies and Backup, as Defined by Rule 34 of the Federal Rules of Civil Procedure, Along with Any Paper Files, as follows:

**I. BACKGROUND AND ARGUMENT**

On or about February 12, 2020, Plaintiff was arrested and charged with “Comp Fraud: Obtain Serv < \$500” pursuant to Virginia Code 18.2-152.3 stemming from LInx searches that occurred on March 29, 2019 incident. On July 2, 2020, Plaintiff appeared in Prince William County General District Court for a hearing on the aforementioned charge. *See* Summons attached as Exhibit A. On that date, the charge was dropped. On February 2, 2021, Plaintiff filed a Petition for Expungement in the Prince William County Circuit Court. *See* Petition attached as Exhibit B. Then, on February 14, 2021, Counsel for Plaintiff sent a litigation hold notice to Defendants directing them to preserve all evidence related to false arrest, malicious prosecution, gross negligence, and intentional torts related to criminal charges levied against

Plaintiff by the Manassas Park Police Department and/or the City of Manassas Park. *See* Litigation Hold Letters attached collectively as Exhibit C. Thereafter, on April 14, 2021, Plaintiff filed the present Complaint. ECF Document #1. Defendants subsequently filed a Motion to Dismiss and Memorandum of Law in Support of Motion to Dismiss. ECF Document #22 & 23, respectively.

On April 30, 2021, the Prince William Circuit Court entered an order directing the expungement of Plaintiff's arrest records to the charge of "Comp Fraud: Obtain Serv < \$500" from the records of the Prince William County General District Court, the Virginia State Police Department, the Manassas Park Police Department, and any other law enforcement agency which may have such records. *See* Order attached as Exhibit D, hereinafter referred to as "Expungement Order."

On or about July 19, 2021, the Manassas Park Police Department received correspondence from Craig P. White from the Commonwealth of Virginia Department of State Police directing removal of all records subject to the Expungement Order and directing compliance within sixty (60) days of the letter. *See* attached as Exhibit E.

Given the pending case and the inconsistencies between the Expungement Order and the litigation hold letter directing for preservation of all records related in any way to the legal claims asserted herein, Defendants are unable to comply with the Prince William County Circuit Court's Order requiring expungement of all records related to Plaintiff's arrest for "Comp Fraud: Obtain Serv < \$500" by September 17, 2021. Because these arrest records are subject to the litigation hold notice and necessarily contain potential evidence for the subject-lawsuit, Defendants request that this honorable Court enter an Order directing preservation of all electronically stored information, copies and backup, as defined by Rule 34 of the Federal Rules of Civil Procedure, along with any paper files until the conclusion of the present action and after the time period for all appeals have passed.

**II. CONCLUSION**

WHEREFORE, for the reasons set forth herein and for reasons which may be argued at the hearing on this matter, Defendants, City of Manassas Park, Mario Lugo, Frank Winston, Trevor Reinhart, Carl Dorr and Laszlo Palko, by counsel, request that the court grant their motion for entry of an Order directing preservation of all electronically stored information, copies and backup, as defined by Rule 34 of the Federal Rules of Civil Procedure, along with any paper files until the conclusion of the present action and after the time period for all appeals have passed.

Respectfully submitted,

**CITY OF MANASSAS PARK, MARIO LUGO,  
FRANK WINSTON, TREVOR REINHART,  
CARL DORR AND LASZLO PALKO  
By Counsel**

\_\_\_\_\_/s/\_\_\_\_\_  
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### **CERTIFICATE OF SERVICE**

I hereby certify that on the 5<sup>th</sup> day of August, 2021, I electronically filed the foregoing pleading with the Clerk of Court using the CM/ECF system, which will then send a notification of such filing (NEF) to the following:

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The foregoing will also be sent via regular mail to:

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\_\_\_\_\_/s/\_\_\_\_\_  
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